

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

VINCENT ROSS GRIFFIN,

Petitioner,

CASE NO. 2:05-cv-0088

JUDGE SMITH

MAGISTRATE JUDGE ABEL

v.

MARC C. HOUK, Warden,

Respondent.

OPINION AND ORDER

On August 25, 2005, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant habeas corpus petition pursuant to 28 U.S.C. §2254 be dismissed for failing to comply with the one-year statute of limitations under 28 U.S.C. §2244(d). Petitioner has filed objections to the Magistrate Judge's *Report and Recommendation*. See Doc. No. 33.

Petitioner objects to all of the Magistrate Judge's conclusions. Petitioner again raises all of the arguments that were previously presented. He alleges that the Magistrate Judge is biased against him and requests that the Magistrate Judge be removed from this case.¹ Petitioner again argues that this habeas corpus petition should not be dismissed as untimely because on October 1, 1998, he filed a timely habeas corpus petition, *see Griffin v. Edwards*, Case No. 2:98-cv-1006 (S.D. Ohio, Eastern Division), which action was dismissed on October 13, 1998, as unexhausted.

Pursuant to 28 U.S.C. 636(b)(1), this Court has conducted a *de novo* review of those portions of the *Report and Recommendation* that are objected to by respondent. This Court has reviewed the entire record. For the reasons discussed at length in the Magistrate Judge's *Report and*

¹ Petitioner also argues at length that he has been mistreated or retaliated against by prison officials. See Doc. Nos. 32, 34.

Recommendation, this Court likewise concludes that this action is untimely under 28 U.S.C. §2244(d). There is no need to remove the Magistrate Judge from this case, as this Court has conducted an independent review of the record.

Petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**.

Petitioner's motion to amend the petition to include the additional exhibits attached to his objections (Doc. No. 34), is **GRANTED**. Petitioner's request for a copy of the docket sheet in this case (Doc. No. 33), is **GRANTED**. For the reasons discussed in the Magistrate Judge's *Report and Recommendation*, petitioner's request for release on bail, and for an evidentiary hearing (Doc. Nos. 32, 34), are **DENIED**. Petitioner also appears to request release into federal custody. Doc. No. 34.

The Clerk is **DIRECTED** to forward a copy of the docket sheet to petitioner and to enter final judgment dismissing this action as time-barred.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH
United States District Judge